

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM A. HILL,

Defendant-Appellant.

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UNPUBLISHED

February 14, 2003

No. 236339

Wayne Circuit Court

LC No. 00-013146-01

Before: Murphy, P.J., and Cavanagh and Neff, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of voluntary manslaughter, MCL 750.321, and possession of a firearm during the commission of a felony, MCL 750.227b. We affirm.

On November 2, 2000, defendant shot and killed the boyfriend of defendant's two-year-old child's mother. The victim and defendant had a tumultuous history, including several quarrels and fights. On the day of the incident, defendant and the victim had a brief confrontation that ended in defendant shooting the victim in the chest, killing him. Police officers in the immediate area responded to the sound of gunshots, and detained defendant. At that time, defendant was unarmed, and told the police that an unknown person had come from around the house and shot the victim. The police recovered a nickel-plated automatic handgun from the scene and it was determined to be the murder weapon. At the trial, defendant testified that he shot the victim. He maintained, however, that he was not aiming at the victim when he shot his gun, but was aiming in the direction of the door. He indicated that he was acting in self-defense after the victim struck him in the back of the head with a bottle, causing him to fear for his life.

First, we decline to review defendant's claim that the trial court denied him a fair trial by refusing the jury's request during deliberations to have certain testimony reread, and by foreclosing any possibility of having the testimony reread in the future. Defense counsel indicated on the record his acquiescence in the trial court's decision to refuse the jury's request

and instruct the jury to rely on its collective memory to recall the testimony.<sup>1</sup> Having affirmatively approved the trial court's handling of the matter, defendant has waived any error. See *People v Carter*, 462 Mich 206, 214-216; 612 NW2d 144 (2000); *People v Ortiz*, 249 Mich App 297, 311; 642 NW2d 417 (2001). Consequently, reversal of defendant's conviction is not warranted on this basis. See *Carter*, *supra* at 219-220.<sup>2</sup>

Defendant also claims that he is entitled to a new trial because the jury was improperly subjected to extraneous influences by the jury foreperson during deliberations and that such impropriety denied him a fair trial. We disagree.

To support this claim, defendant relies on defense counsel's conversation with the jury foreperson after the verdict, wherein she told him that the jury believed that defendant had a good case of self-defense but that they did not believe he could use the gun because he did not have a license to carry the weapon. Defendant maintains that this misstatement of the law was a product of the foreperson's past education in criminal justice,<sup>3</sup> which he alleges constituted an extraneous influence. The trial court denied defendant's motion for a new trial, concluding that the juror's comment was not an outside influence impeding on the deliberation process, but was a reflection of her own thought process.

This Court reviews a trial court's decision denying a motion for a new trial for an abuse of discretion. *People v Crear*, 242 Mich App 158, 167; 618 NW2d 91 (2000). An abuse of discretion is found only if an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling. *People v Ullah*, 216 Mich App 669, 673; 550 NW2d 568 (1996).

We find no abuse of discretion. It is well established that "once a jury has been polled and discharged, its members may not challenge mistakes or misconduct inherent in the verdict."

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<sup>1</sup> During deliberations, the jury sent a note requesting "the testimony of [the victim's girlfriend] and [defendant]." The trial court indicated that it was going to tell the jury that it would be a huge burden to read back the testimony so it could not be done that day and, thus, the jurors would need to rely on their collective memories as to the testimony. The trial court asked defense counsel whether that was "okay" and counsel responded, "[n]othing from the defense, your Honor."

<sup>2</sup> Even had counsel not waived this issue, the trial court's response to the jury's request would not warrant reversal. A trial court cannot refuse a jury's reasonable request to review testimony, MCR 6.414(H), but it can instruct the jury to deliberate further without the requested review if the instruction does not foreclose the possibility of review in the future. *Id.* Here, although the trial court advised the jurors that it was impossible to provide the requested testimony on *that day* and asked them to return to deliberations, it did not completely foreclose the possibility of providing the testimony at a later time.

<sup>3</sup> The jury foreperson, who has never worked in the criminal justice field, has a bachelor's degree in criminal justice and civil engineering, and is currently working as an engineer. During voir dire, the juror acknowledged that she was familiar with some legal terms and may have more legal knowledge than others, but promised not to follow the law as she remembered it from college, but as instructed by the court.

*People v Budzyn*, 456 Mich 77, 91; 566 NW2d 229 (1997). See, also, *Consumers Power Co v Allegan State Bank*, 388 Mich 568, 573; 202 NW2d 295 (1972). An exception exists where juror misconduct can be demonstrated with evidence pertaining to outside or extraneous influences, such as undue influence. *Budzyn, supra*; *People v Messenger*, 221 Mich App 171, 175; 561 NW2d 463 (1997); *Hoffman v Spartan Stores, Inc*, 197 Mich App 289, 293-294; 494 NW2d 811 (1992). However, juror misconduct “cannot be demonstrated with evidence indicating matters that inhere in the verdict, such as juror thought processes and interjuror inducements.” *Messenger, supra*.

Here, we conclude that the juror’s statement did not constitute an impermissible extraneous influence, but represented the juror’s personal opinion. Indeed, defendant’s claim that the juror’s educational background is an extraneous influence is tenuous at best. In any event, there is no evidence that the juror’s statement was a product of her educational background, or that she influenced other jurors with her belief. Further, the juror promised to follow the law as instructed by the court and, before deliberations, the court reminded the jury that it took an oath to decide the case based on the law as instructed by it. Errors caused by a jury’s misunderstanding of the instructions, the verdict form, or faulty reasoning are inherent in the verdict and cannot be challenged. *Hoffman, supra* at 294-295. Moreover, we “will not reward counsel’s postdischarge inquiries regarding the internal thought processes of the jurors.” *Id.* at 291. Accordingly, defendant is not entitled to relief on this basis.

Affirmed.

/s/ William B. Murphy  
/s/ Mark J. Cavanagh  
/s/ Janet T. Neff